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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | | | | | | | | |
|---|---------------|----------------------|---------------------------|------------------|----------|--------------|------|--|-----------|---------------|------------|-------|
| 10/812,211 | 03/29/2004 | Brian Lee Lawrence | 140352-1/YOD GERD:0107 | 3029 | | | | | | | | |
| <div>7590 02/22/2007</div> <div>Patrick S. Yoder FLETCHER YODER P.O. Box 692289 Houston, TX 77269-2289</div> <div>EXAMINER MIDKIFF, ANASTASIA</div> <table border="1"><thead><tr><th>ART UNIT</th><th>PAPER NUMBER</th></tr></thead><tbody><tr><td>2882</td><td></td></tr></tbody></table> <table border="1"><thead><tr><th>MAIL DATE</th><th>DELIVERY MODE</th></tr></thead><tbody><tr><td>02/22/2007</td><td>PAPER</td></tr></tbody></table> | | | | | ART UNIT | PAPER NUMBER | 2882 | | MAIL DATE | DELIVERY MODE | 02/22/2007 | PAPER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/812,211

Applicant(s)

LAWRENCE ET AL.

Examiner

Anastasia Midkiff

Art Unit

2882

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) _____
13. ☐ Other: _____


EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER

ASM

2/17/07

Continuation of 11. does NOT place the application in condition for allowance because:

With respect to the 35 USC 103 (a) rejections of Claims 1, 3-5, 7, 11, 19, 22, and 35-37 as being unpatentable over Kieffer et al. in view of Tillman et al., and of all dependent claims (Claims 2, 6, 8-10, 12-18, 20, 21, 23-34, and 38) in combinations with the other secondary references (see Applicant Remarks, Page 15), the Applicant asserts that the combination of Kieffer et al. and Tillman et al. do not teach "a focusing surface formed by a coating disposed on at least a part of a surface of an x-ray bulb envelope", as Kieffer does not teach at least a partially rounded surface "so as to comprise a bulb envelope" (see Applicant remarks, Page 13, Paragraph 1), and that this deficiency is not remedied by Tillman, as his mirrored surface coating is internally disposed in an x-ray envelope (see Applicant Remarks, Page 13, Paragraph 2). The examiner respectfully disagrees.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As cited in the previous action, Kieffer teaches an x-ray envelope, which, when combined with the teachings of Tillman, has at least a partially curved surface, so as to be properly termed a bulb, although the examiner notes that the terms "x-ray bulb" and "x-ray tube" are both commonly used to describe a highly evacuated glass enclosure for an x-ray device, absent any additional structure claimed. The device of the present invention employs a "bulb" (84), which is shown in the Figures to have only a rounded portion (86) incorporated into the glass envelope (85) to produce a "bulb" (See Figure 3). Additionally, Kieffer already teaches the use of a curved, focusing mirror to focus the laser, and Tillman is relied upon for teaching the placement of the mirror coating on an internal envelope surface for focusing of x-rays. By using the coated mirror surface of Tillman within the apparatus of Kieffer in order to focus the laser without the need for an additional, external mirror, there would be a reduction in parts, as stated in the previous office action.

Further with respect to the combination of Tillman and Kieffer, the Applicant asserts that there is no motivation to combine, as there is no citation in either reference regarding a reduction in parts, and that there would not be a reduction in parts, as both references teach the use of a parabolic mirror to focus a laser. The examiner respectfully disagrees.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, reducing the number of parts required is a commonly known motivation, resulting in less expense and difficulty in creating and maintaining a device. Tillman et al. teach a mirrored surface inside an existing envelope, not an additional mirror, as taught by Kieffer et al., so that by employing the mirrored surface of Tillman in the envelope of Kieffer et al. there would be no need for the additional mirror piece of Kieffer, as the laser would be focused by a coating on an existing surface. Hence there would be a reduction in parts.

Therefore, the prior art rejections of Claims 1-38 are maintained.